# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

Old Dominion Freight Line, Inc	Civil Action No.:		
500 Old Dominion Way Thomasville, NC 27360			
Thomasville, NO 27500	Judge		
Plaintiff			
-VS-			
Clinton Aluminum U.S., Inc.	OOMD! AINT		
Serve: Thomas J. Dagenback, Agent	<u>COMPLAINT</u>		
5412 Courseview, Dr., Ste 420			
Mason, OH 45040	\$118.128.31		

Defendant

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Now comes Plaintiff, through counsel, and for its Complaint against the Defendant states as follows:

### PARTIES AND JURISDICTION

- 1. Plaintiff, Old Dominion Freight Line, Inc. ("Plaintiff"), is a Virginia corporation with a principal place of business located at 500 Old Dominion Way, Thomasville, NC 27360.
- 2. Defendant, Clinton Aluminum U.S., Inc., is an Ohio corporation with its principal place of business at 6270 Van Buren Road, Clinton, Ohio within Summit County.
- 3. Plaintiff alleges an amount in controversy in excess of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.
- 4. This court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is complete diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

5. Venue in this district is appropriate under 28 U.S.C. §1391 because a substantial part of the events giving rise to this claim occurred in the district as Plaintiff provided a large number of its services to Defendant in this district, and because Defendant resides in this district.

### STATEMENT OF FACTS

- 6. Plaintiff is a motor carrier as that term is defined by 49 U.S.C. §13102(14).
- 7. Defendant manufactures and distributes aluminum and steel throughout the United States.

#### **COUNT I - BREACH OF CONTRACT**

- 8. On or about June 01, 2017, Defendant began using Plaintiff's shipping services on a credit account.
- 9. By using Plaintiff's shipping services, Defendant became bound by Plaintiff's published Tariffs.
- 10. Defendant has defaulted on the terms of Plaintiff's Tariffs by virtue of failing to make timely payments due thereunder for Plaintiff's shipping services.
- 11. Defendant presently owes Plaintiff the sum of \$118,128.31, with interest at the statutory rate of 5% (or whatever legal rate is in place at the time of judgment) per year from August 7, 2018. A statement of account is attached hereto as Exhibit "A".

#### COUNT II - GOODS AND SERVICES SOLD AND DELIVERED

- 12. Plaintiff fully restates the allegations in the preceding paragraphs as if fully rewritten herein.
- 13. Defendant owes the sum of \$118,128.31 for goods and/or services sold and delivered between January 11, 2018 and July 19, 2018.

## **COUNT III - UNJUST ENRICHMENT**

- 14. Plaintiff fully restates the allegations in the preceding paragraphs as if fully rewritten herein.
- 15. Defendant has received goods and/or services valued in the amount of \$118,128.31 without making payment to Plaintiff and has been unjustly enriched.

**WHEREFORE,** Plaintiff respectfully requests judgment against Defendants for the sum of \$118,128.31, with interest at the statutory rate per year from August 7, 2018; for costs herein incurred and all other relief the Court deems just and equitable.

/s/ Mark Sheriff

Mark Sheriff (0019273)
Thomas & Thomas Attorneys At Law
Attorneys for Plaintiff
2000 West Henderson Rd., Ste 330
Columbus, OH 43220
614-817-1833 ext. 303
513-475-4406 fax
Mark.Sheriff@tt-law.com

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